The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PRADEEP K. BANSAL and CARROLL W. CRESWELL

Appeal No. 2002-2180
Application No. 09/089,011

ON BRIEF

Before BARRY, LEVY, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-35, which are all the claims in the application.

We affirm-in-part.

BACKGROUND

The present invention relates to a scheduling system by which a user may manage scheduling and attendance of a meeting. Meeting attendees may be notified if the user will be late for the appointed meeting. Representative claim 32 is reproduced below.

32. A method for managing a scheduling system, comprising the steps of:

determining meeting status information based on information about an appointment and information about a user;

automatically generating an attendee notification message, using stored attendee notification information, based on the meeting status information;

receiving a response from an attendee of the appointment to the attendee notification message, the response changing the time of the appointment.

The examiner relies on the following references:

Jones et al. (Jones)	5,400,020	Mar. 21, 1995
Tognazzini	5,790,974	Aug. 4, 1998 (filed Apr. 29, 1996)
Conmy et al. (Conmy)	6,101,480	Aug. 8, 2000 (filed Jun. 19, 1998)[1]

Claims 1, 17, and 30-32 stand rejected under 35 U.S.C. § 102 as being anticipated by Conmy.

Claims 2-9, 12-16, 18-23, 29, and 33-35 stand rejected under 35 U.S.C. § 103 as being unpatentable over Conmy and Jones.

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[1] The patent claims benefit from U.S. provisional application 60/050,155, filed June 19, 1997.

Claims 10, 11, and 24-28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Conmy, Jones, and Tognazzini.

We refer to the Final Rejection (Paper No. 12) and the Examiner's Answer (Paper No. 20) for a statement of the examiner's position and to the Brief (Paper No. 19) for appellants' position with respect to the claims which stand rejected.

OPINION

In response to the rejection of claims 1, 17, and 30-32 under 35 U.S.C. § 102 as being anticipated by Conmy, appellants argue that Conmy fails to disclose, as recited in instant claim 1, receiving a response to the attendee notification message from an attendee, "the response changing the time of the appointment."

With respect to anticipation, "the first inquiry must be into exactly what the claims define." In re Wilder, 429 F.2d 447, 450, 166 USPQ 545, 548 (CCPA 1970). According to the "Summary of Invention" provided in the Brief (at 2), "the attendee may generate a response that changes the time of the appointment," referring to the disclosure at page 7, line 1 to page 8, line 21.

The instant specification at page 7 teaches that the user of the system may enter an attendee "profile" that includes, for example, how that attendee should be notified if the user will be late for the appointment. The scheduling unit may store the information in a scheduler database 350. The relevant specification section also teaches a number

of ways in which an attendee may be notified when the user will be late for an appointment.

The specification at page 8 provides an example of sending a message to attendees, in the case that the user is running late. In addition to sending the message to an attendee, the scheduling unit may receive a response back from an attendee.

> For example, a message delivered using the telephone 410 might state "I am running 45 minutes late. Press 1 to reschedule our meeting to 10:45 am. Press 2 to cancel our meeting." The scheduling unit would then record the attendee's response and may send a message, such as a pager or e-mail message, back to the user. Similarly, the scheduling unit 300 may ask the attendee to leave a voice message for later delivery to the user. The appropriate message, requested response, and other user information can be stored as a user profile in the scheduler database 350.

Spec. at 8, ll. 15-21.

Although an initial reading of the claim 32 limitation regarding the attendee's "response changing the time of the appointment" suggests a requirement that the time of an appointment be actually changed (e.g., changed by a user or by an automated scheduler), appellants' disclosure makes clear that the recitation is to be interpreted more broadly. The disclosure does not teach that the actual appointment time of a meeting is changed by an attendee's response. Rather, the response is recorded, and the user may be notified of the response and its content.

We therefore consider appellants' arguments in support of instant claim 1 to be not commensurate in scope with the invention that is claimed. Appellants assert that "Conmy does not disclose or suggest that an invitee declining the invitation can in any

way change the time of the meeting. Instead, in Conmy, when the invitee declines the invitation, this is merely sent to the coordinator who then must make decisions about how to reschedule the meeting or to not include the invitee in the meeting." (Brief at 5.)

We agree with the examiner's finding (Answer at 11) that Conmy discloses, at least at the noted sections in columns 9, 11, and 12, that an attendee may propose rescheduling of a meeting, as by proposing "another event time," in responding to an attendee notification message. In view of the proper interpretation of the recitation of claim 32 that is in controversy, we conclude that the claim requires no more than what is described by Conmy.

We thus sustain the Section 102 rejection of claim 32. Appellants have not provided separate arguments in support of claim 1 or 17. We therefore sustain the rejection of claims 1, 17, and 32. See 37 CFR § 1.192(c)(7).

Appellants note limitations of instant claims 30 and 31 (Brief at 7) that the examiner has not shown to be disclosed by Conmy. In the statement of the rejection (Answer at 3-4), the examiner does not allege, let alone show, where Conmy may disclose receiving user location information, and determination of a user being late for an appointment based on the location information. We thus cannot sustain the Section 102 rejection of claim 30 or 31.

With respect to the rejection of claims 2-9, 12-16, 18-23, 29, and 33-35 under 35 U.S.C. § 103 as being unpatentable over Conmy and Jones, we are in substantial agreement with appellants' position set out in the Brief. The Jones reference is

concerned with notifying persons of the impending arrival of a transportation vehicle, such as a bus, plane, or fishing vessel. Jones col. 1, ll. 5-10. Although the examiner, in combining the reference with Conmy, analogizes the school bus driver in Jones' preferred embodiment to a "user" being late for an appointment, Jones is directed to vehicular transportation. As illustrated by the reference's preferred embodiment, the school bus, rather than the driver, is the entity of interest. If, for example, more than one driver shared the duty of driving a particular school bus route, it would be of no moment whether a particular driver was or was not present at a scheduled stop.

We are in ultimate agreement with appellants that Conmy and Jones have been improperly combined so as to meet the terms of the instant claims. We do not sustain the Section 103 rejection of claims 2-9, 12-16, 18-23, 29, and 33-35 as being unpatentable over Conmy and Jones.

Nor can we sustain the rejection of claims 10, 11, and 24-28 stand under 35 U.S.C. § 103 as being unpatentable over Conmy, Jones, and Tognazzini. Although Tognazzini appears to be more pertinent than Jones to appellants' invention, the teachings of the tertiary reference as applied do not remedy the deficiencies we have identified in the basic combination of Conmy and Jones.

CONCLUSION

The rejection of claims 1, 17, and 32 under 35 U.S.C. § 102 as being anticipated by Conmy is affirmed. The rejection of claims 30 and 31 under 35 U.S.C. § 102 as being anticipated by Conmy is reversed.

The rejections of claims 2-9, 12-16, 18-23, 29, and 33-35 under 35 U.S.C. § 103 as being unpatentable over Conmy and Jones, and of claims 10, 11, and 24-28 under 35 U.S.C. § 103 as being unpatentable over Conmy, Jones, and Tognazzini, are reversed.

The examiner's decision in rejecting claims 1-35 is thus affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

LANCE LEONARD BARRY
Administrative Patent Judge

STUART S. LEVY
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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